TEXAS DEPARTMENT OF MOTOR VEHICLES

BOARD MEETING

9:05 a.m. Thursday, March 10, 2011

200 East Riverside
Building 150
Room 1.B1
Austin, Texas 78704

BOARD MEMBERS:

Victor Vandergriff, Chair Cheryl E. Johnson, Vice Chair Cliff Butler Jim Campbell Ramsay Gillman Victor Rodriguez Marvin Rush Laura Ryan Johnny Walker

STAFF MEMBERS:

Ed Serna, Executive Director Brett Bray, General Counsel

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1 PROCEEDINGS MR. VANDERGRIFF: Good morning. I apologize 2 3 for starting a little bit late. I appreciate everybody being here this morning. 4 I'm calling to order the regularly scheduled 5 6 meeting of the Texas Department of Motor Vehicles Board of 7 Directors, and with that, the first order of business is to have a roll call of the members. 8 Board Member Walker? 9 MR. WALKER: Present. 10 MR. VANDERGRIFF: Board Member Gillman?. 11 MR. GILLMAN: Present. 12 13 MR. VANDERGRIFF: Board Member Butler? MR. BUTLER: Here. 14 15 MR. VANDERGRIFF: Board Member Campbell? 16 MR. CAMPBELL: Present. 17 MR. VANDERGRIFF: Board Member Rodriguez? MR. RODRIGUEZ: Present. 18 19 MR. VANDERGRIFF: Board Member Ryan? MS. RYAN: Here. 20 MR. VANDERGRIFF: And Vice Chair Johnson? 21 MS. JOHNSON: Here. 22 MR. VANDERGRIFF: And I, Victor Vandergriff, am 2.3 24 here as well. Marvin Rush will not be joining us today.

With that, we do have a quorum.

I do not have any cards from anybody indicating they wish to comment at the beginning of our session on just a general public comment. Is there anybody in the audience?

(No response.)

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MR. VANDERGRIFF: Seeing none, I do have some people wishing to comment on specific action items that we have.

The first item of business we have is a resolution adopting contract approval procedures, and Mr. Campbell is coming out of the Finance Committee with that, so I'll turn to him.

MR. CAMPBELL: All right, Mr. Chairman. One thing we wanted to do, in order to adopt the procedures relating to the contracts on behalf of the department, we recognize that there are so many things that are statutorily required, contracts and term contracts, so I just want to kind of identify those and at least give us an idea of that.

As you know, the TexasSure Program, which is the financial responsibility verification program awarded to HDI, they have a not-to-exceed budget of \$11.5 million, approximately, and then SOAH on the contested cases have not-to-exceed of about \$2.6 million, and then the Texas Department of Criminal Justice, which manufactures our

license plates and stuff, has a not-to-exceed of \$13.1 million. And really what I'm trying to say is there's some areas there that we really don't have a lot of room on, so we can only cover it basically in our budget process.

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And then the term contracts, which is the Texas

Comptroller of Public Accounts, they negotiate like

photocopier machines and automatic mailing systems and

that type of stuff, and unless a term contract fails to

meet their needs, state agencies are required to use these

contracts, so there's not a lot of room in those areas.

What we have done is tried to put some limitations or some direction on contracts under \$100,000, and let me back up for just a minute. Unless otherwise stipulated during operation budget review, contracts are considered approved and no additional approval is required, so as we go through the budget process and set this up, we want to make sure that we're looking at it at that time because they become approved.

As we move forward, the contracts under \$100,000, the executive director has the authority to make those contracts on his own, basically, as long as it follows the rules and regulations and policies and oversight. Contracts over \$100,000 to \$200,000, the executive director is to report contract execution to the

board after it's been done, so he's got the authority basically under \$200,000. And what we found is the dollar amount threshold is in line with private sector because about 65.7 percent of our agency's discretionary contracts are under the \$200,000.

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So contracts over \$200,000 have to be approved with the board, so after the board's approval, then they're executed by the director. And what we want to try to do is we want to give him the latitude to make the decision, we just want to make sure that we are responsible in monitoring the budgets for the state.

Change orders, you need to know that a procurement may not be divided into smaller contract purchases or lots to avoid any dollar limitations prescribed by the resolution. And then, of course, the emergency procurements, contracts over the \$200,000, the director would be responsible to get in touch with the chairman of the board and the chairman of the Budget Committee also.

And I would like to move this forward for resolution.

MR. BUTLER: Second.

MR. VANDERGRIFF: We have a motion by Board Member Campbell and a second by Board Member Butler. Do we have any discussion?

MR. RODRIGUEZ: I'd like to just make a couple of comments, Mr. Chairman.

MR. VANDERGRIFF: Please.

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MR. RODRIGUEZ: Number one, in the process of approval I'm concerned that if someone brings a contract here or if the executive director brings a contract here that is subject to this resolution to be brought before us that we won't get into the weeds of the contract -- in other words, that we're going to be up here, for the lack of other terms right now, trying to dot different i's and cross different t's up here. That's the only concern I have up here is if we start getting into contract approval, then it's an approval process as opposed to reexamination of a contract proposal. So I don't disagree with this, I just have that concern.

I have a concern also where there are matters that are legislatively directed that would be, given this resolution, caught in the resolution language but yet legislatively directed otherwise. So I just make those observations, but I understand what we're going to do here.

MR. CAMPBELL: Mr. Chairman, if I could.

I think we took this into consideration in considering this resolution, considering that over 65 percent of it falls under the discretionary contracts or

under the \$200,000, it gives the executive director the authority to make those decisions without our involvement, basically, with the exception that he's got to bring them back for our review after he's done it at the next meeting.

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Additionally, the bigger contracts are generally statutory requirements which we don't really have that much authority. We don't have the authority to decide outside of the criminal system for the plates. You know, you've got a \$13.1 million budget there and we really can't modify that too much. Because it's a mandate, you don't have the choice of going out and selecting someone else.

So I think we've given enough consideration that what we're really trying to do is we are responsible as a board, and in delegating our responsibility we just want to monitor it pretty well, and I think this is a good way to do that.

MR. VANDERGRIFF: Yes, Vice Chair.

MS. JOHNSON: I would just like to thank Mr.

Campbell and the committee for arriving at this resolution. The only concern I have, and it's not a major one because you've addressed it, is the emergency procurements. Being on the coast, we of course understand emergencies, I'm not sure I understand in Austin the

emergency, but I see that you have addressed contacting 1 the chairman. 3 Now, will these be conformed in writing? Would that be your intention on this, that there just wouldn't 4 be verbal understandings on contracts under \$200,000? 5 6 MR. CAMPBELL: I guess it would be protection for the executive director to have it in writing, so that 7 8 would probably be a good addition to it. 9 MS. JOHNSON: And other than that, I support this. And I greatly appreciate you efforts on this. 10 Thank you, Mr. Campbell. 11 MR. VANDERGRIFF: Any further discussion? 12 13 MR. WALKER: You're right on line. MR. VANDERGRIFF: All right. We have a motion 14 15 and a second. Please raise your right hand in support of 16 the motion. (A show of hands.) 17 Mr. VANDERGRIFF: All those opposed. 18 19 (A show of hands.) MR. VANDERGRIFF: The motion carries seven to 20 one with, again, Marvin Rush being absent today. 21 I would also then move on to item number 3, 22 which is the special recognition of our outgoing Board 2.3 24 Member Jim Campbell.

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Mr. Campbell's many business and family

interests have required him to spend more time in that direction, but it has been a great privilege and a pleasure for this entire board to be able to serve with him since our inception. He has been an insightful member of this board, has provided a calm demeanor, even in the face sometimes of a sea of insanity that we sometimes can get into in discussion, and he has diligently performed his duties as the Finance chair and brought a good sense of financial knowledge and balance to us, as well as represented the segment of his industry that we oversee.

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It's been a fine privilege to have him here, and I know I personally will miss him and I think I'm speaking for the entire board and for the staff as well as to how much we respect and appreciate his service and his friendship and his leadership. He will, as I said, be sorely missed here. But I intend to start establishing special committees, so we'll get him back in here as a volunteer member.

Also, I want to recognize Denise. I appreciate you being here today, his lovely wife, who is not only his partner in life, his partner in business and in family. So they have been a great team and it's been great to have her with us as well.

We do have a special plaque for you, and I also believe that after we present this plaque to you that the

staff has something extra for you as well.

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MR. SERNA: We do, in fact, have a plaque of recognition for Mr. Campbell from the Department of Information Resources, from the board and the staff to recognize your service. I've been to your office, you've got that nice big fish up there, we hope that maybe you can find a spot near the fish for this or somewhere in your office. So let me go ahead and give this to you.

And we've taken the liberty of getting a photographer because we'd like to annotate at least our first board, so I'm going to hand this to you and we'll get the board members to come up here as well.

(Pause for photographs.)

MR. VANDERGRIFF: Staff has something special for you as well.

MS. HEIKKILA: Jim was our first chair of
Finance and Audit, so we wanted to kind of acknowledge his
contributions and help in getting the agency up and going,
especially in terms of finance and oversight.

(Pause for staff presentation and photographs.)

MR. CAMPBELL: If I could just say it's actually been a pleasure serving. We have an outstanding board, this is a strong board, very opinionated, we have strong leadership in our chairman and vice chairman and all the board members. But I tell you what, the staff, I

can remember our chairman saying that we need to get this Texas Department of Motor Vehicles, we need to get it standing up where it stands on its own, and I think they've done an outstanding job, and I'm just proud to serve with them and a great staff. Appreciate all of you. Thank you.

(Applause.)

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MR. VANDERGRIFF: Our next item of business -- and it's all downhill from here, sorry folks, this was the highlight for the day -- is the consent agenda from Bill Harbeson.

MR. HARBESON: Good morning. My name is Bill Harbeson. I'm the direct of the Enforcement Division.

We have before you today on the E agenda 58 enforcement agreed orders, seven notice of violation citations, nine cases where staff has decided to dismiss the case, 13 cases from the Lemon Law section where the parties have reached an agreement to settle the case and not go any further, and four cases in the franchisee area.

The staff has asked that you approve these and enter the orders that have been presented to you earlier.

MR. RODRIGUEZ: So moved, Mr. Chairman.

MR. GILLMAN: Second.

MR. VANDERGRIFF: We have a motion from Board Member Rodriguez and a second from Board Member Gillman.

(No response.) 1 MR. VANDERGRIFF: Seeing none, please raise 2 3 your right hand in support. (A show of hands.) 4 MR. VANDERGRIFF: The motion carries 5 6 unanimously. Thank you, Bill. 7 We now have a briefing discussion and possible 8 action on special license plate marketing program from Randy Elliston. 9 MR. WALKER: Can we combine this with 7.A while 10 we're here? 11 MR. VANDERGRIFF: Yes, we could. 12 13 MR. ELLISTON: Mr. Chairman and members, for the record, my name is Randy Elliston. I'm the director 14 15 of the Vehicle Titles and Registration Division. 16 This morning I want to provide you just kind of an eye-level briefing on the specialty license plates 17 marketing program. We're about a little over a year into 18 19 the program since My Plates started business back in November of '09, so I thought it would probably be a good 20 time to just take a quick look at some of the numbers that 21 22 we have in the program. The first slide here shows the revenues from 2.3 24 11/19/09 through 2/28/11, gross sales there in the bottom

right corner of \$9,290,939, and you can see in the columns

how that breaks out: the My Plates portion at almost \$5 million, GR funds of almost \$3.3-, and Texas DMV a little over a million for costs of administering the program.

The next slide there is auction highlights. Or January 13 the My Plates group put on an auction at the Dallas Cowboys facility up in Arlington. I was able to attend that, it was quite a show that was put on, and during that time they auctioned 33 license plate numbers for 25-year terms, took in gross receipts of \$139,400. The highest winning bid went to "Ferrari" for \$15,000, lowest winning bid "Michael" for \$800, and the average of the license plates across the board was \$4,210.

This slide here really is only to show you kind of what the top five selling plates are in the vendor and non-vendor program. You can see the Lone Star black is My Plates top seller, then the T for Texas black, the white, the T for Texas red, and the Lone Star pink. Then the next set of information over shows the non-vendor which our most popular plate was the personalized white which actually is the third one that has crossed over and is now a My Plates plate and it is showing up as their third highest seller. We still do renewals only, we don't sell that plate anymore. Then Animal Friendly, State of the Arts, Horned Lizard and then the Texas A&M plate -- had to make sure we got that one in there.

MR. WALKER: Can we make sure we clarify that 1 the Horned Lizard is not TCU? 2 3 MR. ELLISTON: I don't think there's anybody from TCU in here so I'll be safe in saying that is not a 4 TCU plate. 5 6 MR. GILLMAN: That outsold Aggies pretty bad. MR. VANDERGRIFF: I was going to say is that a 7 8 request of a board member or a request of an Aggie former student. 9 10 MR. WALKER: Ramsay is over here ribbing me about it. 11 MR. VANDERGRIFF: I think it's reflective of 12 13 who has the better football program. (General laughter.) 14 15 MR. ELLISTON: It's probably a good time to 16 move on to the next slide here. The next slide here is vendor plate order 17 terms, the one-year, five-year, ten-year and 25-year. 18 19 can see that 64 percent of the people have bought the oneyear plate, 19 on the five-year and 16 on the ten, and 20 then the 25-year, the 33, that was only for auction that 21 they did the 25-year term. We had some restyled plates 22 that were sold. 2.3 24 The one-year renewal rate, and this is really kind of a snapshot in time, and when you see November of 25

'09, the first year orders they sold 777 plates, the one-year renewal in 2010 was 633, so had about an 81.5 percent renewal rate which is good. Then you move on down to December, January, the same thing as you apply it down.

Overall, as we can count to this point, about 65.9 percent renewal rate on My Plates.

It's really too early to get much of a gauge, so I don't want anybody to think we're gauging anything here, it's really just a snapshot in time. It will take a year, probably, to see really how this all plays out on renewals. We've developed a lot better tool of tracking these now so we can go see if it's a February sale, if they renew it in January or March, we'll still capture it as that month's sale. Because some people renew in the month before, some go into the month, so we want to make sure we're tracking it appropriately.

MR. WALKER: Randy, can I stop you right there?

The renewals up here in November a year ago, what sales

price was that on that tag? That's a \$75 tag, a one-year

plate?

MR. ELLISTON: On November? I don't have that.

That was just renewal of all the plates that they sold at that point. It's all price ranges, I don't have them broken out. I can get that for you, though.

MR. WALKER: Well, didn't we increase the price

of the plates in?

MR. ELLISTON: In December.

MR. WALKER: In December this past year.

MR. ELLISTON: Yes, sir.

MR. WALKER: So the renewal, can we say that we have lost revenue or stayed about even or ahead of the game by increasing the prices and having a reduction in the amount of renewals?

MR. ELLISTON: We'd have to run the math on that to see. You can see that there was a drop in December, another drop in January, it came back up a little bit in February, but I'd have to work the math to see and we have not done that at this point since we're so early on, to try to get a real gauge. Because they did sell for a higher price so obviously you can sell fewer and still make the same amount of money.

MR. WALKER: Or maybe more money.

MR. ELLISTON: But we'll get that information for you.

The next slide is the one that you don't have in your book. This past Monday they kicked off their Seven for Seven sale. They were selling seven-character personalized plates for seven days. This is the first time that seven-character plates have been up for sale, excluding the auction. They had a big day on the first,

they sold 1,450 plates, they lay-awayed 151 plates. After two days of sales \$1,093,000, so a pretty big day, sold a lot of plates. 193 one-year orders, 196 five-year, and 957 ten-year orders. MR. WALKER: That's about 20 percent of our annual volume was done in one day. MR. ELLISTON: It was a bunch.

MR. WALKER: We do about \$7 million in sales a year?

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MR. ELLISTON: And this was a big push for My Plates, they marketed it heavily, a lot of TV ads, billboards, things like that, and built it up in the days before, and you'd have to ask Mr. Farrar, but my understanding is they had a lot of people standing in the queue waiting to get in on this deal. Now, obviously the second day and the third day it begins to fall off because the people who were really waiting got in there on the first day. But we're pretty impressed with what they did on the first day.

MR. WALKER: Did we congratulate Mr. Farrar?

Is Steve here.

MR. ELLISTON: I did. He's here.

MR. WALKER: Steve, congratulations. I never would have thought that that would work like that, but congratulations for a very successful day.

MR. ELLISTON: And that's all I have on this issue unless you have any questions about it.

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MR. VANDERGRIFF: Any questions? I did note that Steve Farrar from My Plates is here if any board members would wish to ask any questions or if he has anything he'd like to say.

MR. FARRAR: Briefly. Just for the record,
Steve Farrar from My Plates. I am the president of My
Plates, and just for clarification purposes, the horned
frog lizard is a Texas Parks and Wildlife plate, not TCU,
but we do have TCU coming into our program in the coming
months, so we're quite excited to have those in our
program as well as having Texas A&M.

Just following on from Randy's comments, yes, the Seven for Seven campaign was very exciting for us. I think a snapshot as well for year two of our program, even prior to Seven for Seven our December figures, because we're now in our full second year, we can look at our figures from the previous year, and just to let you know, our month of December for 2010 versus 2009 was 70 percent increase, January was 79 percent increase, and our February was 46 percent increase.

Now, January of this year was our best month ever prior to Seven for Seven. Now, in one single day on Monday we were actually able to exceed our best month ever

in sales, so it certainly was a very exciting day for the team at My Plates and for the DMV. In that one single day over \$450,000 was generated to the general revenue fund of Texas, so a great day overall.

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So we're very pleased with that and available for any questions, but I was really here for comment on 7.A to support the adoption of the plates that Randy is presenting.

MR. WALKER: Steve, were you capable of handling all that volume on one day that you'd never had before? How did it work?

MR. FARRAR: The pleasing thing is within the first 16 minutes of opening the release -- we opened early because the program of seven characters launched at 7:00 a.m. on the 7th of March, and at 16 minutes past the hour we had over \$200,000 in orders already, a quarter of a million dollars at the 25 minute mark past the hour. We certainly had queues lined up, we had 50 people on hold, and the thing about Seven for Seven is people were listening to our voices messages to go to the website but people did not want to go off hold because they just wanted to stay and wait and get their call center operator to lock their plate down.

Still it's probably only about 5 percent of our sales went through the call center, probably a little bit

less actually. Most of it was facilitated through the website. The great news is our website is a very robust system and was able to handle all the traffic coming through. So it was an exciting day, a very successful day for our program systems and operations. We did have a longer queue wait time than usual so our metrics were a little bit out, but we'll catch up with those over the next couple of months.

MR. WALKER: Well, congratulations for a job well done. The State appreciates \$350,000 that just went into the general fund that day.

MR. FARRAR: Thank you.

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MR. ELLISTON: I'll make one other comment before we move on from this item. There will be a few of those that I hope will pick a different set of characters. You will be amazed at how creative people got with seven characters, what they wanted to put on their license plates. Some of them we're not going to be able to allow to hit the streets, though, just so you know.

MR. RODRIGUEZ: So you said some of them what now?

MR. ELLISTON: Some of them will not be able to be released because of what they wanted to put on that license plate.

MR. RODRIGUEZ: Who decides that?

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MR. ELLISTON: We do, the DMV decides that. 1 2 MR. RODRIGUEZ: Based upon? 3 MR. ELLISTON: We have a long list of things that are not acceptable to go on a license plate, and we 4 have rules in place that tells us things that are like 5 6 vulgar things, things that would represent law enforcement. We had one that wanted SHERIFF put on there; 7 we won't let that plate go out. So we have criteria that 8 9 we go by for that. 10 Somebody said we need to get some teenagers in here probably to look at some of those things too. Some 11 of them are strung together, and unless you do a lot of 12 13 texting or tweeting or whatever, I wouldn't have even known what that was. 14 15 But they are scrutinized pretty heavily. Now, 16 if we release one that we get a complaint on later, say 17 one does get through our process, we do have a process to recall that plate. 18 19 MR. RODRIGUEZ: So anything they sell has your stamp of approval? 20 MR. ELLISTON: That's correct. Everything they 21 sell comes through us to approve what's on the license 22 plate before it goes out. Yes, sir. 2.3 24 MR. VANDERGRIFF: Move to 7.A. 25 MR. ELLISTON: Mr. Chairman and members, the

state specialty plate vendors is requesting approval of 15 specialty plate designs and the Texas Masons are requesting approval of one non-vendor specialty plate design which will be administered by the Texas Ag Commission. Each are included in your briefing book. These plate designs have been published on the department's website for public comment, those comments are also included in your book.

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In addition, all the plates have passed the legibility and reflectivity testing with the exception of one, the Texas Stars plate, which is the third from the left end on the bottom row there. That plate has not passed reflectivity yet, however, our experts tell us they believe that it will. TxDOT, who does our testing, currently their equipment is down, they're unable to test that plate, but the engineers that do that for us say they believe it will pass. We would ask you to go ahead, so that we don't get slowed down on it, and approve it subject to the passing of the reflectivity test.

And we ask that you approve those.

MR. WALKER: I make a motion that we accept the plates with the exception of the Stars and that we tentatively approve it with the condition that it approves the reflectivity.

MS. JOHNSON: Second.

MR. VANDERGRIFF: We have a motion from Board 1 Member Walker and a second from Vice Chair Johnson. Do we 2 3 have any discussion on it? (No response.) 4 MR. VANDERGRIFF: Please raise your right hand 5 6 in support of the motion. 7 (A show of hands.) 8 MR. VANDERGRIFF: All those opposed. (A show of hands.) 9 10 MR. VANDERGRIFF: The motion carries seven to one with Board Member Rodriguez voting against it and 11 Board Member Rush is absent. 12 13 MR. ELLISTON: Mr. Chairman and board members, before you today is our request for approval for final 14 15 adoption of amendments to the Texas Administrative Code 16 Title 43, Chapter 217, Section 217.28 concerning Specialty 17 License Plates, Symbols, Tabs and Other Devices. have amendment to Chapter 17, Section 217.62 concerning 18 19 requirements for non-repairable or salvage vehicle titles. These proposed amendments were posted in the Texas 20 Register in accordance with statute. No comments were 21 22 received by the public. These amendments, if adopted, will streamline 2.3

the process for registration validation for various plates

and clarify the policy regarding license plate replacement

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if a motor vehicle or license plate is stolen. On the 1 second amendment will clarify that the owner-retain 3 statutes that relate to salvage and non-repairable vehicles only apply to Texas titles. 4 And we would request your approval of this rule 5 6 amendment for final adoption. 7 MR. RODRIGUEZ: So move, Mr. Chairman. MR. VANDERGRIFF: We do have a motion. 8 I have a member of the public who wishes to testify against the 9 10 item -- I'm sorry -- that's on 6.C.2. We have a motion for approval by Board Member Rodriguez. Do we have a 11 second? 12 13 MR. GILLMAN: Second. MR. VANDERGRIFF: Second by Board Member 14 15 Gillman, a motion and a second. All those in favor please 16 raise you right hand in support of the motion. 17 MR. RODRIGUEZ: That's 6.A.1 and 2. MR. VANDERGRIFF: Yes. 18 19 (A show of hands.) 20 MR. VANDERGRIFF: All those opposed? (No response.) 21 22 MR. VANDERGRIFF: The motion carries with the board members present unanimously. 2.3 24 We're now on to 6.B.

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MS. AUCOIN: Good morning. My name is Aline

Aucoin. I'm one of the associate general counsels for the 1 2 department. 3 You have before you proposed amendments to Title 43, Sections 218.2 which is a definition section, 4 and 218.11 regarding Motor Carrier Registration. 5 6 I propose an amendment to 218.2 to delete an incorrect entry under the definition of a commercial motor 7 vehicle. The definition of a commercial motor vehicle 8

incorrect entry under the definition of a commercial motor vehicle. The definition of a commercial motor vehicle should not include a vehicle transporting household goods for compensation, and this deletion is necessary in order to make the rule consistent with existing statutes.

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MR. WALKER: So move that we accept this.

MR. VANDERGRIFF: We have a motion. We may have got a little fast.

MS. AUCOIN: I also have another proposed amendment and I would propose that there be a resolution to move forward on both, unless you want to take them individually.

MR. RODRIGUEZ: Is the motion for both?

MR. WALKER: Yes. Post both of them through the motion.

MS. AUCOIN: I also propose amendments to Section 218.11 regarding Motor Carrier Registration.

These amendments modify the rule to make it consistent with applicable statutes and to define the word "valid"

regarding a US DOT number. Because the applicable 1 statutes refer to operation of certain vehicles on a road 2 3 or highway of the state, I'm merely proposing to modify the rule to make the rule language consistent with the 4 statute. And also the amendment clarifies that the phrase 5 6 "valid US DOT number" merely means an active US DOT number. 7 8 So I recommend approval of the proposed amendments to Section 218.2 and 218.11. 9 10 MR. BRAY: When you say approval, you mean for 11 posting. To post it for comments. 12 MS. AUCOIN: 13 MR. WALKER: This is really just a cleanup of some technical wording so that it's clarified. It has no 14 15 effect on the industry, and the industry is in support of 16 this; we don't have a problem with it. 17 MR. VANDERGRIFF: Are you moving for both? MR. WALKER: Yes. I still move them both. 18 19 MR. VANDERGRIFF: Are you seconding both? MS. JOHNSON: Yes. 20 MR. VANDERGRIFF: We have a motion from Board 21 22 Member Walker and a second from Vice Chair Johnson. discussion? 2.3 24 (No response.)

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MR. VANDERGRIFF: Seeing none, I'll call for

your vote, please. 1 (A show of hands.) 2 MR. VANDERGRIFF: The motion carries 3 unanimously. 4 5 (General talking and laughter.) 6 MR. VANDERGRIFF: I do want to note something for everybody in the audience. Over the last couple of 7 8 months I've come to appreciate a great deal, even more so than I already did, the services of Aline, Leah, Jennifer, 9 10 Molly, Bill, Brett Bray's entire legal staff. They have done an outstanding job of sorting 11 through opportunities and objects coming at us in the 12 13 legislative session, and really have appreciated their great efforts. They put in a lot of hours, and I know 14 15 we're not even quite halfway there, so we've got a lot of 16 time let to go. 17 So I just wanted to note that while I had a member of your staff up here, Mr. Bray. 18 19 MS. AUCOIN: Thank you. MR. VANDERGRIFF: The next item for business is 20 6.C, and we have three separate warranty performance 21 22 proposals. MR. HARBESON: Good morning again. My name is 2.3 24 Bill Harbeson. I'm the director of the Enforcement Division. 25

Joining me today is Mark Gladney, who we hired on last week to head up the Lemon Law Section, so in the future Mark will be the expert in this field and will be talking to you about these cases.

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There are three cases before you today in the warranty repair area. The first one is Jones v. Mazda. The board has been provided with copies of correspondence from Mrs. Jones as well as from Mazda North America, the respondent in that case. The staff in this case is recommending that an order incorporating the findings of fact and the conclusions of law in the PFD, the proposal for decision, as corrected by staff, be entered dismissing the complaint.

In this particular case the complaint that was before the ALJ regarding a warning light and it was determined by the ALJ in his findings of fact that that particular complaint arose after the warranty period for this particular vehicle had expired, so there was actually no jurisdictional basis to bring that complaint.

Again, the staff is recommending that that order that's been presented to you today be approved.

MR. RODRIGUEZ: So move, Mr. Chairman.

MR. VANDERGRIFF: We have a motion for approval by Board Member Rodriguez. Do we have a second?

MR. CAMPBELL: Second.

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1	MR. VANDERGRIFF: Second by Board Member
2	Campbell. Any discussion?
3	MR. WALKER: We're doing case-by-case on these?
4	MR. HARBESON: Yes, we are.
5	MR. VANDERGRIFF: Yes. This is 6.C.1.
6	Any further discussion?
7	(No response.)
8	MR. VANDERGRIFF: Seeing none, I'd call for
9	your vote. Please raise your right hand in support of the
10	motion.
11	(A show of hands.)
12	MR. VANDERGRIFF: The motion carries
13	unanimously.
14	MR. HARBESON: The second case before you today
15	is Binder v. Gulf States Toyota, and Mr. Binder is present
16	today to make an oral argument to the board.
17	MS. RYAN: Mr. Chairman, I would like to make
18	the statement that I will not be involved and recuse
19	myself from this case.
20	MR. VANDERGRIFF: Please let the record reflect
21	that Board Member Ryan will not participate.
22	Go ahead, Mr. Binder.
23	MR. BINDER: My name is Stephen Binder, and I
24	own a 2009 Toyota Corolla. Ever since I've driven it off
25	the lot when I bought the vehicle, it burned oil, still

burns oil.

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Just to give you a little background information, on April 19 of 2009 I was taking a road trip to Houston and on the way back I was driving into my housing complex, noticed a grinding noise and I was kind of familiar with it, and my first inclination was to check the oil. When I did check the oil the dipstick was totally dry, and I hadn't even gone 5,000 miles between oil changes. So what I did the very next day is I took the vehicle to the dealership and they did what they called an oil consumption test, and that happened, I don't know, for the next year.

Toyota claims that my vehicle doesn't burn excessive oil. According to them in their owner's manual, what constitutes excessive oil is burning 1.1 quarts of oil every 600 miles. I guess that would mean that I would have to add oil every time I fill up the gas tank which is, I think, in my opinion, ludicrous to have something like that in their owner's manual.

They came out with a technical service bulletin in August of 2009 stating that my particular vehicle with my VIN number under certain driving conditions may burn oil, or they use the term consume oil, I say burn oil. What the recommendation was in the technical service bulletin was to re-flash the ECM, and they performed that

at Champion Toyota. The results were that it didn't do anything, the car still consumed oil.

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Just to give you a couple of the service records that I had done at Champion Toyota. On February 4 I took the car in for an oil consumption test and an oil change. The service report -- which I have documentation of -- stated that the oil needed immediate attention, and this is only after 4,000 miles between oil changes. It was recommended to me to take the vehicle to someone different than Toyota, which I did, I took it to Lamb's Auto. They did an oil consumption test. After 3,000 miles the oil level was one-fourth above the bottom of the dipstick.

I want Toyota to repair the vehicle, and the two main reasons are is I think that the vehicle is unsafe. I don't feel safe driving the vehicle. And the one thing that really, really upsets me is that Toyota came out with this technical service bulletin in August of 2009, they never contacted me or anything and said, Hey, your vehicle may be burning oil. And I could have been on a road trip or something, I could have been stranded somewhere because of running out of oil, you know. That's a safety issue right then and there.

The second issue I don't want the vehicle right now, I'd like to get rid of it, but unfortunately I can't

because no one wants to buy a vehicle that burns oil. 1 going to have to be honest with these people that come to 3 look at the vehicle. The only thing that I could do is trade in the vehicle and be out about \$3,000 to \$4,000. 4 I just feel that Toyota sold me a lemon that 5 6 burns excessive oil. The technical service bulletin and 7 the service records really speak for themselves, I have 8 documentation. When a Toyota service technician writes on your service order that your engine oil needs immediate 9 10 attention, that in itself should be a red flag that says right away the car burns excessive oil. So my wish is 11 that Toyota will repair this problem. 12 13 Thank you. MR. VANDERGRIFF: Do any of the board members 14 15 have any questions of Mr. Binder? 16 MR. WALKER: I do. MR. VANDERGRIFF: Please. 17 MR. WALKER: What would be acceptable to you in 18 19 the amount of oil that your car should consume? 20 MR. BINDER: I don't think a new car should consume -- I don't think it should be noticeable. I've 21 owned two other Corollas in the past. 22

MR. BINDER: I'm not a mechanic, I don't know

MR. WALKER: So a car shouldn't consume any

oil, that's what you're saying?

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how much it should consume, I just know that after 5,000 1 miles the dipstick in the vehicle shouldn't go dry. 2 3 MR. CAMPBELL: Mr. Chairman, could I just get a clarification. 4 MR. VANDERGRIFF: Johnny was pausing. 5 6 MR. WALKER: Go ahead and ask the question. MR. VANDERGRIFF: Go ahead, Mr. Campbell. 7 MR. CAMPBELL: And your request is that they 8 9 fix it, it's not that they replace the car with a new car. 10 Is that right? MR. BINDER: Well, I'm not eligible for them to 11 replace it, I'm only eligible for repairs, from what I 12 13 understand. I would love for them to replace it, but you know. 14 15 MR. CAMPBELL: But your interest right now is 16 for them just to fix the problem. 17 MR. BINDER: I just want them to fix the problem. 18 19 MR. WALKER: Well, you made a comment that the car is unsafe. I'm not real sure how oil consumption 20 makes a car unsafe. I'm not a mechanic but I own a shop 21 and so forth, and the way a car burns oil is by bypassing 22 it through the rings or through the cylinders, you'd have 23 24 to put all new rings, master cylinders and bearings in

order to take and change that, in effect, almost replacing

1	the engine. So I'm not real sure what you're asking us to
2	do to fix your car.
3	MR. BINDER: I want them to replace the engine
4	or whatever they have to do to fix this.
5	MR. WALKER: How many miles are on your car?
6	MR. BINDER: Right now approximately 48,000.
7	MR. WALKER: And how old is the car?
8	MR. BINDER: I bought the car February of 2008,
9	and approximately 14 months later is when I actually
10	noticed the car was burning oil.
11	MR. WALKER: My concern would be is that Toyota
12	has made a statement here, and I don't think that they're
13	wrong and I have a car, I've had a lot of cars in my
14	life, and they all burn oil.
15	MR. BINDER: Do they burn that much oil that
16	every 5,000 miles your dipstick goes dry?
17	MR. WALKER: It's not dry well, if it's dry,
18	that means you're out of oil.
19	MR. BINDER: Yes. Well, that's what happened
20	to mine.
21	MR. WALKER: I'm reading right here what Toyota
22	said, and I don't guess we have anybody here with Toyota,
23	do we?
24	MR. HARBESON: that's correct.
25	MR. WALKER: But in the report that I guess we

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got from Toyota it said that it was consuming a fourth of a quart of oil every 1,000 miles. Is that not what they said?

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MR. HARBESON: At the hearing the evidence that was received from Toyota was that the owner's manual advised the consumer that there would be oil consumption.

Looking at that and the oil consumption test for this particular vehicle, it was the finding of the administrative law judge that the oil consumption of this particular vehicle was not abnormal, and they went on to say therefore, because of that, it did constitute a defect which would invoke the warranty provisions.

MR. VANDERGRIFF: Mr. Bray, can you make sure and remind us exactly the limits and scope of our review of these cases?

MR. BRAY: They're the same as any contested case, you've really only got the three opportunities to reject a SOAH proposal for decision, the State Office of Administrative Hearings, the last being that it's a technical error which I don't think we have here -- well, actually we do, but it wouldn't be dispositive of this case.

MR. VANDERGRIFF: Right.

MR. BRAY: And the other two are a misapplication of law or policy or relying on a case that

1	needed to be overturned. None of those appear to exist in
2	this instance.
3	MR. VANDERGRIFF: So we don't really have the
4	opportunity for fact questions or discussions unless it's
5	a misapplication of the law.
6	MR. BRAY: That's right.
7	MR. VANDERGRIFF: Or a board policy.
8	MR. BRAY: That's correct.
9	MR. VANDERGRIFF: Okay.
10	MR. RODRIGUEZ: And just to be clear, Mr. Bray,
11	it's your opinion we don't have any misapplication of law,
12	policy and no technical error committed by the SOAH judge
13	in this case?
14	MR. BRAY: That's correct.
15	MR. RODRIGUEZ: I move we approve the
16	resolution as proposed, Mr. Chairman.
17	MR. WALKER: Second.
18	MR. VANDERGRIFF: We have a motion and a
19	second, the second by Board Member Walker. Any
20	discussion?
21	(No response.)
22	MR. VANDERGRIFF: All those in favor please
22	MR. VANDERGRIFF: All those in favor please raise your right hand in support.

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(A show of hands.) 1 MR. VANDERGRIFF: We have a seven to one vote 2 3 with Vice Chair Johnson voting in opposition. MR. BRAY: Excuse me, Mr. Chair, you have a six 4 to one and one. 5 6 MR. VANDERGRIFF: Six to one and one. right, we had an abstention. I apologize. Board Member 7 8 Ryan had to abstain from the vote. MR. VANDERGRIFF: Mr. Binder, thank you for 9 appearing. 10 The next item is 6.C.3, which is Kane v. BMW of 11 North America. 12 13 MR. HARBESON: The Board has been previously provided with correspondence submitted by Mr. Kane. 14 15 Is there a representative from BMW here? I was 16 given a note that they were on their way but they have not 17 appeared. Do you want me to proceed or do you want me to delay this? 18 MR. VANDERGRIFF: No. Go ahead and proceed. 19 20 MR. HARBESON: Yes, sir. In this particular case this dealt with the 21 22 fuel injector on this particular BMW. The findings by the administrative law judge was that the manufacturer had 2.3 24 made the necessary repairs under the warranty, and indeed, 25 I think there was a finding that shortly before the

hearing they again replaced the fuel injector simply 1 because they saw that it had an outdated number on it so 3 they put a new fuel injector on this vehicle before. This particular vehicle, by way of information, was a used 4 vehicle purchased by Mr. Kane. 5 6 It's the staff's recommendation today that an order incorporating the findings of fact and conclusions 7 8 of law in the proposal for decision, as corrected in the order that you have before you, be entered dismissing this 9 10 complaint. MR. RODRIGUEZ: So move, Mr. Chairman. 11 MR. CAMPBELL: Second. 12 13 MR. VANDERGRIFF: We have a motion from Board Member Rodriguez, a second from Board Member Campbell. 14 Discussion? 15 16 (No response.) 17 MR. VANDERGRIFF: Please raise your right hand in support of the motion. 18 19 (A show of hands.) MR. VANDERGRIFF: The motion carries 20 unanimously. 21 22 Mr. Harbeson, I think you're still up. MR. HARBESON: Yes, sir. Before the board 2.3 24 today are twelve cases on motions for disposition after

default by the respondent in the case. The staff is

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1	asking that the orders that have been presented to you be
2	approved and then be entered.
3	MR. BUTLER: I so move.
4	MS. JOHNSON: Second.
5	MR. VANDERGRIFF: We have a motion from Board
6	Member Butler and a second from Vice Chair Johnson. Do we
7	have any discussion?
8	(No response.)
9	MR. VANDERGRIFF: Please raise your right hand
10	in support of the motion.
11	(A show of hands.)
12	MR. VANDERGRIFF: Mr. Gillman, Mr. Walker, are
13	you in favor of this motion?
14	MR. WALKER: Yes.
15	MR. GILLMAN: Yes.
16	MR. VANDERGRIFF: The motion carries
17	unanimously.
18	The next item of business is 7.B on our agenda,
19	which is the approval of the business process analysis
20	contract, and I'll turn it over to Mr. Serna.
21	MR. SERNA: Good morning, Mr. Chairman, members
22	of the board. For the record, my name is Ed Serna and I'm
23	the executive director of the Texas Department of Motor
24	Vehicles.
25	The item before you which actually the tab is

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empty but there was a handout, a binder clipped handout that was presented to each of you this morning. And I apologize for not getting the material to the board sooner. We were still in an active negotiation with this particular topic until Tuesday of this week, and staff had some concerns about issuing information prior to us knowing for sure that we had come to some agreement with the vendor.

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Let me give you a quick summary. The document that you have before you has a one-page, or actually it's a front and back summary of the business process analysis and this particular phase of what used to be called Vision 21 now referred to as the TxDMV Automation System Project.

There's a also a timeline that's a high level timeline that's the second page in that handout. This timeline is intended to demonstrate where the business process analysis fits in the larger scheme of things of the project that used to be called Vision 21. We had heard feedback from board members and stakeholders that we needed to change that name. We didn't come up with a very catchy name, but we have started changing it from Vision 21 to the TxDMV Automation System Project.

This particular phase of the project is intended to capture the requirements that will help the department advance as it moves forward to secure new

technology. Several of the larger procurements in the state in the past have failed because this particular phase of the project wasn't successfully carried out. They either went ahead and procured software without knowing what they wanted to do or they procured software with some idea of knowing what they wanted to do but then actually would have a lot of change orders because they didn't have a clear picture of that.

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The business process analysis, or BPA, as we commonly refer to it, is intended to do several things. First of all, it's intended to document our current processes which we don't really have a clear picture of, and that's really important because we really can't decide where we want to go until we know were we are. The second thing that the BPA will do, which is incredibly important, is document our to-be or future state processes. We will heavily rely on input from our stakeholders and our staff, and quite frankly, probably be coming to the board asking for input there as well, to describe our to-be state or our future state.

Drawing on those two documents, the BPA will result in the requirements that we put into a request for proposal to move forward with Part 3 of our automation system project, and that's the part that will actually bring new technology into the DMV. The BPA is primarily

an information gathering and requirements development effort to get to new technology.

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There's another aspect of this particular project, and that is getting detailed input from our stakeholders, the county tax assessor-collectors, the automobile dealers, the motor carriers, the manufacturers, sheriffs, et cetera, and the citizens, getting input to truly describe and document what we want to do and how we want to do it as the DMV moves forward.

Staff started working on this project at the end of last calendar year. We received responses from six vendors. Three of those vendors indicated in their response that while they were very interested in this effort, they did not want to participate because it would preclude them from working on Part 3 or the larger development and implementation effort. We moved forward with discussions with the other three vendors: Gartner, Inc., RFD & Associates, and Grant Thornton.

After staff evaluated the responses in the proposals, they moved forward with Gartner for several reasons: one, price consideration; two, the team that was proposed by Gartner; and three, the timeline that was proposed by Gartner met the staff's very aggressive timeline.

When we talk about timeline for this particular

project, if approved by the board for us to move forward, we will begin later this month with a kickoff meeting and the hard stop for this project is December 31 of this year, so I in approximately eight-plus months, a little bit under nine months we intend to have all of our processes documented and have the requirements that we'll incorporate into the RFP for Part 3.

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This contract was negotiated at a fixed price of \$1.3 million, and if you'll flip in the handout, there's a stapled packet that is Business Process Analysis Solicitation 608-blah-blah-blah, and if you'll flip to the second to the last page on that, it's the pricing. The \$1.3 million, we're not just going to pay them an hope that they give us what we want, we're actually basing payments on the acceptance of deliverables.

The first deliverable is the development of a project plan that will be very detailed that we'll provide to the board and report to the board on in every meeting concerning our progress against that plan. Staff's estimate -- and this is just our estimate and we'll modify the estimate once we get the actual project plan from the vendor and agree to that plan -- but staff's estimate is then the assessment of the current state should occur in the summer time frame, being done probably in July. The development of the future state, Phase 3, will be done in

September, the gap analysis in October, and then, of course, our end date of the end of December for the final phase of the project.

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One of the things that also impressed staff concerning Gartner group was the team that they had assembled, the Gartner team includes several team members that participated in a similar review at the State of Virginia's Department of Motor Vehicles.

In particular -- and you may not be aware of this -- Virginia started a similar effort a couple of years ago. They went down the path that I described initially which was procure software and then attempt to implement it and make changes as they went along. After about a year's effort they stopped that project, they hired a consultant, this particular firm, to come onboard and help them define their requirements, basically conduct what we describe as a BPA, help them define their requirements. They then had those requirements, put out a bid document. In November of last year they executed a contract on that bid and are moving forward with the implementation of a new system.

So we've got the lessons learned in Virginia so we don't have to repeat some of their mistakes. IN addition, on the team are two people who previously worked in the State of Virginia and were key to that effort as

well, so we've got that expertise that Gartner would provide to the team.

Finally, and kind of in closing, staff feels very confident that the results of this will get us the

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very confident that the results of this will get us the beginnings of acquiring the technology that we need to move the department forward to fulfill the vision that both the board and the legislature and the stakeholders expect and have for the department.

So with that, Mr. Chairman, I'd like to recommend that staff be approved to execute the contract and move forward with the procurement.

MR. VANDERGRIFF: Before I open it up for questions from the board, I did want to ask if there's anyone from Gartner here in the audience. There's nobody here from them?

MR. SERNA: I don't think so, sir.

MR. VANDERGRIFF: And do you know who the two people that were formerly working in Virginia and that are on their team.

MR. SERNA: I don't know the name of both of them, but one of them is Karen Chappelle, who was sort of the executive lead over the project and worked directly on the project, and the other worked on that team for her.

MR. VANDERGRIFF: Okay. Thank you. Question, Mr. Gillman.

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MR. GILLMAN: Can we get a peak at the price for the Virginia thing?

MR. SERNA: I don't have that with me, no, sir, but we can get a peak at the price, but it's similar to this, comparable to this.

MR. GILLMAN: So we're in line.

MR. SERNA: Yes, sir.

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MS. RYAN: Ed, can you also explain the technology assessment piece of the other phase to the total project and how they line together with the BPA?

MR. SERNA: Yes, ma'am. This timeline that you have shows a few other projects that are there. One of the other projects that we'll be working on in-house is the technology assessment project. That particular project is intended to evaluate the current technology that's available and used by the DMV and the state for all of our processes, so the registration and titling of vehicles, the interaction with the motor carriers and the automobile dealers, et cetera. That particular assessment will provide a description of the where we're at from a technology perspective and help us outline where we need to go that we'll put into that RFP that's in Part 3. That

That particular piece, the technology assessment, will be done by staff with probably a few contracted staff coming onboard just for that period of

time because of particular expertise that we may not have, for example, in network topology or in database administration.

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MS. RYAN: And the outcome of that project will allow us to map our current infrastructure as we pull away from TxDOT's infrastructure so that we can do a standalone?

MR. SERNA: Yes, ma'am. One of the key outcomes of that is to describe the points that we need to address and replace TxDOT providing us service, both with network, with infrastructure support, things like that.

As well as when we get to the RFP, we want to make sure that we put a bid document out that completely separates us from TxDOT and from other dependencies on other agencies, technologically.

MR. RODRIGUEZ: I've got a question.

MR. VANDERGRIFF: Yes.

MR. RODRIGUEZ: I think Walker -- I don't want to get in his way right now.

MR. WALKER: Let me make some comments on this. As chairman of the project committee, the last time we met we gave a directive to the department to go back and identify the needs of what we needed to go forward with the project with the Vision 21. We had decided to slow down the process on the Vision 21 in order to find out

what our true needs are.

We had somebody working in here that we spent a bunch of money with a year ago that I don't think -- and I've asked this question specifically numerous times, including this morning -- we can show anything for what we've spent more for in the past as to what we got for what we paid. And I don't know the specific amount but I wouldn't be surprised to find out it's probably close to what we're being asked to spend today.

But what we have asked the staff to do is to go forward and identify the needs of the department, to map out those needs, to get stakeholder input from the tax assessor-collectors, from the car dealers, and from the people who will be using this system.

And so I'm not real appreciative of how we got here today. I've talked to Ed about this. This is last minute. The first I knew about this, and I think the rest of the board knew that we were even going to be presented with this was yesterday afternoon. Well, I worked with staff last night and communicated with Dawn, with Ed here probably until ten o'clock last night going over some of this stuff to become a little better versed on where we're at with this program, what we're doing, and where we need to be taking this thing and addressing it.

And Ed, I'm going to support you on this today,

but I'm going to tell you up front that I wont support you again when you last minute hit me at three o'clock in the afternoon on these kind of deals and expect me to stay up all night long to try to get better understanding so that I can present this to you or support your vote here today. But I did it this time, but I don't think any of the board wants to see last minute asking us spend \$1.3 million of the state's money without some kind of better knowledge of where we're going with this stuff.

MR. SERNA: Yes, sir.

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MR. WALKER: If we don't move forward with some of this stuff, we're handcuffing the department. We've asked them to go do something. To delay the process I think is going to put us 30 days down the road. We have a committee meeting of our committee next month, we would look at this, and the way it should have been handled would have been we would have brought it through the committee process, looked at it, made some assessments of where we're going, what we're going to get and is this the direction we need to take this. That's the way it should have been handled. But if we don't, we're delaying the process.

We've got a timeline and an LAR process that we need to meet some timelines to get to where we need to get to to get this program going. We've been one year plus

out here and not done anything on the Vision 21, so to speak. In order to start Vision 21 and start moving it down the road, we've got to take and identify the needs. That's what this business program analysis is to do is to identify the needs that we will need to hire somebody else down the road that will not be the Gartner people.

As far as Gartner, the only thing I know about Gartner and what they can do for the department, I know that Karen Chappelle is on this team of people, and I assume, Ed, that she will be working directly with the Texas department.

MR. SERNA: Yes, sir.

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MR. WALKER: She was instrumental and she was a candidate for this job here -- and Victor, you know we've interviewed her and talked to her -- she was instrumental in putting together the program in Virginia, so she knows what we will need and she will know how to direct the program. So I assume, if we ask if she's qualified, yes, she's qualified, I would assume that she would be on our team to identify the needs up here.

We already have the money, it's not a money issue, the money has been appropriated through the LAR process, we've got it in there under the Vision 21.

There's some concerns going forward, and I've always made a statement that I'm not the kind of person that says we

have the money, let's spend the money, but the bucket is always continually being refilled on this, but we look at some risk associated if we don't take and start using the money for the intent of what the legislature gave us this money for that they may come back in and say, Hey, they're not using that money, let's re-appropriate and divert that money to some other needs.

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So I think we need to move forward on this program and go forward at this time.

MR. SERNA: I appreciate it, sir.

MR. VANDERGRIFF: Board Member Ryan and Board Member Gillman have been working on a companion piece which is an organizational assessment, and I'd like for you to maybe give us a little bit -- I think that comes to us next month -- on how that dovetails in and is not duplicative.

MS. RYAN: Did you have a question before I start?

MR. RODRIGUEZ: Yes. I've got a question on this part.

MR. VANDERGRIFF: I'm not done with questions.

MS. RYAN: Okay. As you see, the organizational assessment is part of this whole process and project that Ramsay and I have been working on also with staff, and I have the RFP that's being scored

currently and I have it for you all to look at. It will come before the board in April and that way you can look at the RFP. We had eleven bids and they're being scored now so we don't have a lot of detail.

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But the organizational assessment piece and how it fits into this is it's really a three-pronged approach to the project. It will assess the organization, do a swat analysis that will basically give us the information of where our weaknesses and efficiencies areas are so that when we do get the needs of the stakeholders and the business processes and then add the technology of where we're currently at, the board and the staff then have all the pieces of the pie to make very educated decisions on any structure, technology, process support programs so that when we do make a decision and put the RFP out this time next year, we have a very strategic and clear plan of what the outcome would be with all those prongs.

So what we didn't want to do was piecemeal this before the board and come back in April and not be clear today on how what we're going to bring in April is going to fit into this total vision, and that's why the organizational assessment is on this timeline. And again, I can pass out the RFP that was posted and if anybody has any questions, and that way it will give everyone time to look it over as well.

Ramsay? 1 2 MR. GILLMAN: You have done one heck of a job. 3 MS. RYAN: We make a great team. That's right. She does all the MR. GILLMAN: 4 work, I like it. 5 6 (General laughter.) MR. WALKER: Would there be any overlap in your 7 8 program and what we're trying to do? MS. RYAN: No. I can assure you not because 9 10 the project manager of the BPA, Julie, who is going to be the project manager of the org assessment, Ed and myself 11 spent over two hours yesterday with side-by-side 12 13 comparisons, not just looking at words but making sure we understood what expectations were going to come out of 14 15 each of the RFPs. And the project managers were present 16 for both projects to ensure that as they worked with the 17 vendors they were able to manage and be very specific on where those overlaps and lines would be. We also put 18 19 plans in place that those two project managers meet on a regular basis to ensure that the projects stay consistent 20 and that when we get them both they meet right in the 21 22 middle where we want them to meet. MR. VANDERGRIFF: Mr. Serna, do you agree with 2.3 24 that?

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Yes, sir, absolutely.

MR. SERNA:

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MR. WALKER: That was one of the other comment that I wanted to find out was have we assigned team leaders for both of these projects, and how often are we going to meet and analyze the program, and when can the board expect to see a timeline that says this is the expected dates that we want to be here in January, we want to be here in April and here by October of next year. We need to see a timeline so that we know that we're hitting a target to get the program to where it needs to finish up at on December 31, I think.

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MR. SERNA: Our plans with regard to the BPA, now that we're going to have a Projects and Operations

Committee, to go to the Projects and Operations Committee in April. We'll provide the committee members and the board with the project schedule in advance. We'll discuss that project schedule with the committee in April and then with the full board at the April meeting, and then at every board meeting we'll have that project timeline, the specific project timeline that's developed by the vendor.

Once the organizational assessment gets awarded, that vendor will develop a project timeline and the two project managers will ensure that those timelines are in sync with each other.

MR. WALKER: So if we were to approve this today, when could we anticipate a start date from the

vendor and when could we expect a timeline that says this is where we're going to be at these dates?

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MR. SERNA: Let me answer the question backwards up. The timeline is contractually required to be provided two weeks after the start, and the start could probably occur as early as next week.

MR. WALKER: So if we were to approve this today and we have a committee the morning of our next board meeting, we could have Gartner will be here at that committee meeting, I assume, and our team leaders here, and we could address a timeline and we could report to the board that this is the anticipated dates to carry this program through from infancy to completion.

MR. SERNA: Yes, sir, is the answer to your question. The timeline that I described earlier was just a very high level estimate that staff has put together, but the specific timeline that Gartner will prepare will be presented at the April board meeting to the committee first and then to the board as a whole. And we'll actually distribute that as soon as we get it done, which will be two weeks after the start, and we anticipate that we can start with the project next week.

MR. WALKER: And you've explained to me, and the board needs to know this, that this is a fixed end contract, it is for \$1.3 million, no plus or minus, no

travel costs, no expenses, it's \$1.3 million, and at the 1 end of the day we have a finished product. 2 MR. SERNA: Yes, sir. And I had mentioned this 3 earlier, but it's a fixed price of \$1.3-, we don't pay all 4 \$1.3- at the beginning, it's paid based on deliverables 5 6 that are accepted by the staff, and there's approximately 7 \$214,000 that's held to the very end until we've accepted 8 the very final product from the vendor. MR. VANDERGRIFF: Board Member Rodriguez, you 9 had a question? 10 MR. RODRIGUEZ: I've got a couple of guestions, 11 Mr. Chairman. 12 13 First off, obviously we've subscribed to the purchasing procedures and all of that that the state 14 15 requires of us as a department. Correct? 16 MR. SERNA: Yes, sir. 17 MR. RODRIGUEZ: Is there a performance bond involved with this? 18 19 MR. SERNA: No, sir, there is not. There's that amount that we're retaining, that \$214,000 that we're 20 retaining. 21 MR. RODRIGUEZ: I would suggest to you I'm 22 troubled by that. 2.3 24 MR. WALKER: A performance bond and a retainage they're not two different things. 25

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MR. RODRIGUEZ: And I agree.

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The process analysis is a complete process, unfettered by any one of us, anyone from the staff, they're free to evaluate? I know, for example, we saw motor carrier type things they were doing up in Virginia that were quite efficient. I think that's what you want to look at. We saw also dealers issuing license plates. Will we assess also the role of tax assessor-collectors in the process and the efficiencies there? So my question is: Is this a complete process review?

MR. SERNA: Yes, sir. It's to be a complete documentation and review of the processes. The future state processes, the to-be processes would not be bound or encumbered, necessarily by any particular restrictions. So in other words, this is just an example, as the vendor is working with staff and the stakeholders and they say this entire process can change so that --

MR. RODRIGUEZ: That's my point. There's a difference between I'm a player right now, for example, any one of the parties that's involved, and you tell me I wish I could do it better, and if we have the contractor come to me and evaluate my situation, he's going to find a way to do it better based upon what I need.

What I'm asking will this review the question as to whether that whole process is even required.

MR. SERNA: Yes, sir.

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MR. RODRIGUEZ: There's a difference between how to fix something and deciding whether or not, or at least recommending whether or not that thing is required.

MR. SERNA: Yes, sir. It's not simply a validation or an updating of the existing processes. That to-be state could include eliminating processes, the development of new processes, and of course, minor and major changes to existing. So the answer to your question is yes, sir, they can say you shouldn't be doing this or you shouldn't be doing this this way.

MR. RODRIGUEZ: My next question is in the technology assessment, and I think one of us commented on whether would we stand free of TxDOT after this, and I think that there comes now the server question. I think there are centralized server services for the State of Texas that aren't necessarily TxDOT, so my point is regardless of what we do, we're going to be tied into a server service somewhere and will this evaluate that. Because regardless of what the recommendation is, we're going to be connected to a server service somewhere and not freestanding, so to speak.

MR. SERNA: Yes, sir. It will evaluate or include in its evaluation not just the services that we're receiving from TxDOT but our technology with regard to

those services that, like all state agencies, we're either required to use or contractually bound to use the State Data Center, as an example. There are some services that by statute state agencies can't get out of. For example, and this is just an example, state agencies have to use what used to be referred to as the TEX-AN contract for statewide telecommunications that the Department of Information Resources holds. Or as you pointed out, the data center that's got 28 state agencies, including ours, servers consolidated in two different data centers.

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So for those things that we can't get out of, it would still evaluate the technology that we're using that's placed there, so the assessment would be do we have the right mix of equipment, are we using the right operating systems, the right software within the bounds of those physical constraints.

MR. RODRIGUEZ: And I know that we're pressing you with a lot of questions, and I'll tell you this, we should have started this yesterday and I think we're here because some of us have -- I think we have -- kind of pointed in this direction that said we ought to be doing this. So I'm not taking from this, I think we should have begun this yesterday. I agree with Johnny Walker completely in what he said in that regard.

Will the study also evaluate the cost

efficiencies or the revenue efficiencies for the state with regard to this. In other words, if in the process we're now paying a dollar to somebody in the middle, will this evaluate that and say you know what, if you do it this way that's one more dollar Texas keeps? I'm just wondering, I'm asking.

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MR. SERNA: Part of the evaluation of the processes and the recommendations for improved processes does look at cost and revenue. There's some component to that in our organizational assessment, and I think both of those together will get to that evaluation and that assessment, looking at it from both a cost and reduction of cost perspective to increase revenue, as well as an enhancement of efficiency to increase revenue. So yes, sir.

MR. RODRIGUEZ: And I'm pointing basically at this point in this regard, and I've got one more question after this, but where I'm pointing with this is the costbenefit analysis of the recommendations. I mean, somebody can come up here and tell us if we bought the computer up on the moon we'd be doing much faster, but they're not going to tell us that cost is going to be get it done. So that's what I'm asking you, to make sure that we don't lose sight of that.

And the last thing has to do with encumbering

this particular contract cost right now in terms of carrying over and not losing this, and I realize we're going to tack this onto the Vision 21 money, so I just want to make sure that we're able to encumber it now to secure its payment later, because we're not going to pay it until after the fiscal year expires here in the next few months.

MR. SERNA: Yes, sir.

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MR. RODRIGUEZ: I recommend we approve the contract, Mr. Chairman.

MR. WALKER: Victor, I can answer your question. This is why everybody on this board should have been given a copy of this RFQ before today's meeting because most of the questions that you just asked are all addressed in here. And it says the scope of the work is to eliminate outmoded, inefficient processes using the leading edge technology to further the Department of Motor Vehicles. So that's what they're supposed to do is identify those things. And we would all have known that had we received this prior to me receiving it at three o'clock last night.

MR. RODRIGUEZ: I'm sorry you stayed up so late last night.

I understand that. There's two things that are going on right now: one is public consumption which I

think is important in the process, and number two, that irrespective of what the document says that we have our intent clearly stated here so that we don't have confusion later on.

MR. WALKER: Is there a motion on the table?

MR. VANDERGRIFF: There is a motion by Board

Member Rodriguez but there's no second yet.

MR. WALKER: To go forward?

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MR. VANDERGRIFF: To go forward.

MR. WALKER: I'll second the motion.

MR. VANDERGRIFF: There is a second and we're open still for further questions.

MS. JOHNSON: Well, I'm going to state my opinion on how I'm going to vote on this, but first I have to ask a question. On page 15 there Milestone 3 involves discussions with stakeholders. Please tell me that isn't tax assessor-collectors.

MR. SERNA: It is tax assessor-collectors.

MS. JOHNSON: But you've been spending the last year talking to the tax assessor-collectors and they're very agitated that you continue to ask us, this is the sixth year now that we've been asked what we want. So is this not duplication of effort? Has not anybody compiled the information that Ms. Jones and so forth have been gathering for you?

MR. SERNA: No, ma'am. Well, I'm sorry. Yes, ma'am, they have. That information will be provided to the vendor, but we didn't want to preclude the vendor from either clarifying or discussing with all of our stakeholders information and including all of our stakeholders in that. So everything that we've done that has been documented will be provided to them, but if they find gaps or need clarification or if there are new ideas that the tax assessor-collectors want to advance to us, then we didn't want to preclude the vendor from being able to contact all of our stakeholders, including the TACs.

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MS. RYAN: Can you identify all of those stakeholders? Because I asked that question yesterday.

MS. JOHNSON: There's been a list produced of stakeholders by Ms. Jones multiple times.

MS. RYAN: But on this it's dealers, motor carriers, it's the full gamut of our stakeholders.

MR. SERNA: Yes, ma'am. It's all the stakeholders, including the public.

MS. JOHNSON: And then I'm just going to go ahead and state, I think that this is long overdue and I agree with the philosophy and that it needs to be done. I cannot support this motion, though, because I have a philosophical objection being asked to vote on something without time to review it. I think it is irresponsible.

I appreciate Mr. Walker's effort and that gives me confidence that this will move forward, but I think this should have gone through committee. I do see that there's a lot of duplication of effort and I just don't think that there's enough money to duplicate effort right now. We've ben asking for a timeline for months for technology, we haven't received it yet.

So I'm not going to support the motion, not because I do not support this process and that it is long overdue, but the way it was delivered to us.

MR. SERNA: I understand.

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MR. VANDERGRIFF: Any further questions?

MR. WALKER: I have one question.

MR. VANDERGRIFF: Please.

MR. WALKER: Ed, my last question on the last page I forgot to ask was does the Gartner contract call for them to write the RFQ for the next step of this process?

MR. SERNA: No, sir, it doesn't call for them to write the RFQ. As a matter of fact --

MR. WALKER: So we'll still have to go get somebody else to write an RFQ.

MR. SERNA: No, sir. We'll probably prepare that in-house utilizing the information that we get from Gartner. We'll start working on that probably in the

November time frame while they're still onboard with us. 1 2 MR. RODRIGUEZ: Just one more thing, Mr. 3 Chairman, I would ask. MR. VANDERGRIFF: Please. 4 MR. RODRIGUEZ: I would ask, Ed, as we go 5 6 forward with this that in the absence of a performance bond that we have the deliverables, one, clearly 7 8 articulated, and two, clearly delivered and received by us 9 before we pay any portion of it. We've had experiences in Texas where we spent a lot of money and got nothing, and I 10 think we started this whole discussion with someone else. 11 12 So I just want to make sure that doesn't happen again. 13 MR. SERNA: Yes, sir. And we'll work with the full board as well as the Projects and Operations 14 15 Committee starting at the next meeting with regard to the 16 milestones, the timeline and then reporting where we're at 17 at every board meeting against that timeline and against those milestones. 18 19 MR. RODRIGUEZ: I call for a vote, Mr. Chairman. 20 MR. VANDERGRIFF: All right. I would like to 21 make one quick remark on a couple of things. I certainly 22 share the frustration of not getting this earlier before 2.3 24 the board.

Having said that, I do want to note and make

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sure that that's not lost in the discussion here, all the excellent work by Mr. Serna and his staff to put together something that is very comprehensive and is responsive to the questions, the needs, the desires of this board, our stakeholders and the public to address, not to just go spend money wildly on a technology project but to do it wisely that it actually has a result, a return that will be beneficial to the state. I think we're headed down that path. How we've gotten there is a bit tortuous, but I think we're headed down that path and I don't want that to be lost in this.

And the second, I want to make sure that the board knows that although we're not by any means done through the legislature, and I don't want to jinx us in this process, that at this point in time they have demonstrated exceptional support for us on the technology piece of this, and they've done that because the promise of what it brings to the State of Texas, the potential for that, but also by the oversight and active questioning involvement that this board has brought to this agency since its inception and continues to bring and is evidenced again by the comments today, and at this point we will have, if it continues, more than enough funds to get this done.

But we've demonstrated once again our efforts

as a board are beneficial to ask the tough questions and move us forward positively, and that's what's expected. So I'm anticipating at the end of the day, whether it's two years or three years from now, that this will be a fantastic project that will have great benefits for the state.

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And the last is that there is the organizational dovetail piece that's into this that I think is important. This is more of the technology and the process piece, but we also have to have the organizational piece to support what we're doing, and that will come before you in April at your committee and for this board's approval so that we can move forward, because that's the other aspect people are expecting and that we're able to handle additional items of business that are being put towards us.

So with that, we do have a motion and a second.

MR. WALKER: I'd call the vote.

MR. VANDERGRIFF: I'll call for your vote. All those in support of the motion please rise your right hand in support of the motion.

(A show of hands.)

MR. VANDERGRIFF: All those opposed.

(A show of hands.)

MR. VANDERGRIFF: The motion carries seven to

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one with Vice Chair Johnson opposed to the timing of the motion.

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So with that, we'll move to the next item on our agenda which is 7.C.

MR. SERNA: 7.C is the registration titling system equipment refresh strategy. There is a handout in your board books.

One of the things that the state and the predecessor organization as well as the DMV has done in the past is provide the equipment to the county tax assessor-collectors that's necessary for them to basically conduct our registration accounting business. We've had to do that because the current system is a very proprietary system -- and Ms. Johnson knows this better than any of us -- is a very proprietary system that requires dedicated equipment. The counties can't run that system on their own equipment nor can they run any other county business on this particular equipment.

The equipment that's out there right now is aging very rapidly. Every meeting that I have with county tax assessor-collector, they mention to me the failure rate, the problems that they have with the equipment. It's becoming more difficult and more expensive for us to repair and maintain that equipment.

What staff would like to do is be able to get

the board's approval to move forward with studying not just going out and buying equipment to replace what we have now but rather looking at either doing that, or an alternative where we would do this through what's commonly referred to as a managed service where we'd get somebody else, a firm to come in and provide the equipment, provide the service to support that equipment so that we wouldn't be responsible for actually acquiring and maintaining that equipment.

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The long-term goal of the department is get out of that business completely. The new system that we envision coming out of Part 3 would be secure web-based so you wouldn't have to have dedicated equipment being provided and so that any applications could run on the equipment.

The other issue that we have is if we look at a managed services contract versus us procuring the equipment, if the equipment needs change, then it becomes the vendor's responsibility to address those equipment needs versus the state having to constantly replace, refresh, update, maintain that equipment.

This is money that was appropriated by the legislature for this purpose. It is not our intent, again, to just go out and buy the equipment, we want to evaluate those alternatives. So we'd like the board's

approval.

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And by the way, the reason we've come to the board with this is from a timing perspective, state agencies are prevented from spending significant portions of their budget in the last quarter of the fiscal year, so June, July and August are sort of periods of time that we wouldn't be able to move forward and address the needs of our partners, the counties.

I'll be glad to entertain any questions.

MR. VANDERGRIFF: And the amount that you're asking us for again?

MR. SERNA: The amount that's set aside is \$9.3 million, and this is just an estimate that we're using. We would hope that we would come in significantly less than that, especially if we get out of buying hardware and having to provide service.

MR. VANDERGRIFF: Questions, Vice Chair.

MS. JOHNSON: There's a couple of things.

We're running into a lot of problems with the RTS system

but it's predominantly centered around the state system,

not the equipment that we have in our offices. The system

goes down constantly intermittently during the business

day, makes us impossible for us to balance at the end of

every day and month, and so I'm not sure that this is

going to correct that. In fact, I don't see how this is

going to do anything other than maybe give me a new computer and maybe give another computer to put under the table next to the one that I own which I don't really like having two. It's very cumbersome in our small offices.

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And we're having issues with equipment that we're sending in right now is being returned to us from subcontractors and it's still broken, so we're having a lot of serious issues with that. We're having to pick up subcontractor equipment every single day that was just repaired, so we really need to address whoever our vendor is right now doing that repair is not doing the job that they need to be doing. I had two stores shut down this week and they were brand new customers, and that does not make me look good, in addition to the DMV.

I appreciate good will, but \$9 million worth of good will right now with people losing jobs, I'm really struggling with, and how can we be certain that the equipment that we're replacing today is going to work into the technology that we have not yet decided we know we need for the future. So I feel like we're putting the cart before the horse, and if there's equipment that is specifically not working, yes, by all means replace that, but \$9 million can replace a whole lot of hardware, I think, and we would rather, in Galveston County, have you fix the state issue, make our contractor equipment work

and let us keep the old hardware till we know that this is what we need for the future.

And so I don't know if you can help me with that.

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MR. SERNA: Yes, ma'am. I can actually help you with all of that.

First of all, we absolutely agree that there are two aspects to the problem with our partners going down a lot. One is not so much the system itself but the servers that that system is running on that's being provided by the state's data center and the problems of that service provider. It not only affects the county tax assessor-collectors, it affects the automobile dealers when E-tags goes down as well, and we're working very diligently to try to address those problems to create redundancies in the system, and if it is a bug in the system to fix the bug, but if it's a process problem in the part of the servers going down, address that very aggressively.

The second aspect of the problem is in a lot of cases older equipment either at the county tax assessor-collector's office or at their subcontractors, so this would address both those county tax assessor-collectors.

And with all due respect, our priority with be to those counties and those service providers that have got the

most problem, get to them first. So it's not just a wholesale my computer is working fine, why are you changing it out, but rather we have counties and the counties' service providers that are experiencing a whole lot more and we want to get to them first.

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To address the last question which is a very valid question -- and Member Ryan and I had a conversation yesterday about this as well -- two things. First of all, one of the aspects that we like of a managed service versus us buying equipment is if the equipment needs change with the new technology -- because we really can't wait until 2012 because of some of these failures -- but if the equipment needs change, it's easy for us using that managed services contract to go and say this is the equipment we need now versus what we have without us having to handle old inventory.

More significantly, what we would envision in the new system is an application or a system that's not reliant on that hardware anymore but is rather reliant on a secure web connection. We're also going to be exploring ways to allow this equipment to be used by the counties for official business, not just DMV business, or make modifications to the existing application, not spend a lot of money but what we can, to allow that application to run on county equipment, because we've heard the same

complaint that you expressed that I've got two computers here and if I get one customer coming in that I can help from my office on two different issues, I have to go to two different systems.

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An example of that is in El Paso they've got a very aggressive scofflaw program, but to execute that program that county tax assessor-collector has to get to two computers: the county computer to check those files, and then he's got to get his staff to go to the one DMV computer that they have in that one particular remote office to check the DMV files, and it slows down serving the customer.

So we're looking at ways to enhance the current systems and security, and it's mostly security, to allow either some county systems to run on the equipment that we provide or aspects of our system to be able to run on county equipment to get rid of the duplication.

But we are focused on those areas that are sort of the high break areas where we've had -- and in one of the slides we talk about where it's taking two business days to replace crashed hard drives because the equipment is old -- we're going to focus on those county tax assessor-collectors and their service providers first versus the people who have got equipment that's working.

MS. JOHNSON: And are you finding there's a lot

of counties out there that they are really not high tech at all, and are you finding that's where the majority of your issues may be? Are you seeing that that's where the biggest problem is?

MR. SERNA: We're actually finding it across the state from two different perspectives: one, in those counties that rely on us as their technology arm for this equipment -- and we're glad to do that because they're actually bringing in the revenue -- we are finding it in those counties, but we're also finding problems in counties that use the equipment a lot and for lack of a better description are just wearing it down. So in a lot of cases those counties are not technologically challenged counties, it's just that they're wearing the equipment down.

And the structure we have now -- which is again why we want to also explore managed services -- in order to get that addressed they have to exclusively rely on us, so even if they have the best IT staff in county government, they can't do anything to help themselves, and that's the model we want to change.

MR. SERNA: Because it's difficult for us, we can't even change a printer cartridge, and so that is very frustrating.

MR. SERNA: Yes, ma'am. You're exactly right.

We want to change that model.

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MS. JOHNSON: That would be very helpful.

MR. SERNA: But I will say one thing, there are some counties that do need us -- not us but through us, through our contractor do need us to do that, and there are counties that don't, and we want to go to a more flexible model, and those counties that can do that kind of stuff will do it, and those that can't without breaking the equipment, please don't do that, we'll do it.

MS. JOHNSON: That would help us because sometimes a service ticket is weeks before it happens and so we have a work station totally down and I sit with a laptop.

I hope you're going to be buying new laptops for us because we're having to designate the investment and partner with us and we really need [inaudible]. We're not giving them iPads, but we definitely need to give them technology.

MR. SERNA: Yes, ma'am. And I don't think RTS would work very well on an iPad, unfortunately. The future system will, the current system won't.

MS. JOHNSON: Thank you.

MR. VANDERGRIFF: Board Member Ryan.

MS. RYAN: I have a question. Are you basically asking at this point that you want to go gather

information, determine what exactly does need to be replaced, and then determine a cost and a return on if there's excessive expense and when there's down time and give us some return on this is what it's costing us with old an this is what it will cost us with new? Will you come back to us with that and this is just you're looking to move forward with that?

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MR. SERNA: We're actually looking to do two things. One, our intention is to do that and come back to the next board meeting, actually, now that we're having a Projects and Operations Committee meeting, to that committee and then the board, but what we'd actually like approval for is to move forward with plans to explore the managed service and at least begin down that contracting path if we can because we're going to begin to bump against that restriction that state agencies have of how much they can spend in the last quarter of a fiscal year based on their total budget.

MS. RYAN: I'm not looking to slow you down, but I would personally like to see, even if it's 30 days, maybe in April, to come back with a little bit more quantifiable this is what we think the return, this is what we think we'd need to spend of the nine thousand --

MR. VANDERGRIFF: Nine million.

MS. RYAN: Nine million. Sorry. I'm just

1	setting an anchor.
2	MR. SERNA: Subliminal anchor.
3	(General laughter.)
4	MS. RYAN: Subliminal anchor. This is what the
5	managed service would do, maybe give us a little bit more
6	information to move forward.
7	MR. SERNA: We will do that. What we'll do
8	that is we will modify this and we will do that at the
9	April committee meeting, and then based on the committee
10	input, to the full board in April.
11	MS. RYAN: And we can move quickly at that
12	point knowing there's a timeline.
13	MR. SERNA: Yes, ma'am.
14	MR. VANDERGRIFF: Laura, you asked all my
15	questions.
16	MS. JOHNSON: And with that, Mr. Chairman, I'd
17	like to move for approval.
18	MR. VANDERGRIFF: We have a motion from Vice
19	Chair Johnson to approve. Do we have a second?
20	MR. RODRIGUEZ: I thought we just settled on
21	bringing it back.
22	MR. WALKER: That's what I thought too.
23	MS. RYAN: What are we seconding?
24	MS. JOHNSON: Letting them go forward to start
25	working on this.

1	MR. WALKER: They're asking for \$9.3 million.
2	MS. JOHNSON: I thought that we were giving you
3	permission to move forward to start this process.
4	MR. SERNA: To start the process to study, but
5	what I understand the motion to be not putting words in
6	your mouth the motion is to move forward and come back
7	to the board next board meeting with more detail, not
8	approval to spend any of the \$9.3 million.
9	MR. WALKER: Do we need a motion for that?
10	MR. RODRIGUEZ: What I would say is why don't
11	we table this till the next meeting.
12	MR. WALKER: Yes. Victor has got it.
13	MR. VANDERGRIFF: Yes. The more appropriate
14	motion under that circumstance is to table. I thought you
15	were moving to approve.
16	So we have a motion to table. Do we have a
17	second?
18	MR. WALKER: I second the motion to table till
19	our next meeting.
20	MR. VANDERGRIFF: All those in favor please
21	raise your right hand.
22	(A show of hands.)
23	MR. VANDERGRIFF: All those opposed.
24	(No response.)
25	MR. VANDERGRIFF: The motion to table this till

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the April meeting carries unanimously, so we'll move it to the April meeting.

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With that, we're on to our last couple of items on the agenda.

MR. WALKER: And Ed, that will be reviewed at the Projects Committee meeting?

MR. SERNA: Yes. It will go to the Projects and Operations Committee first and then to the board.

MR. VANDERGRIFF: It's tabled in accordance with the discussion that we had earlier.

The last item, as far as the chair reports, really my time has been consumed with the legislative session, as those of you on the staff and the board know, and I've already noted, I won't repeat the strong support for us with respect to the capital items but I do want to note a few things for the board and for the public.

The two bills that we spent considerable time in the fall working on, the technology piece, the VTR piece, as well as the cleanup bill that we called the DMV Cleanup Bill, lovingly called, those two bills are filed in both the House and the Senate, they are companion bills. The former chair and current member of the House Transportation, Joe Pickett, is the author/sponsor in the House of the VTR bill, and the mother of our birth as the DMV, Ruth Jones McClendon, is the DMV Cleanup Bill sponsor

in the House, and Chairman Tommy Williams is the sponsor of both of those bills in the Senate. So we're very delighted in that.

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For those in the industry, legislative counsel certainly takes its direction on certain things, and so if there's anything in those bills that you have some issue or concern about, please make sure and direct those comments specifically to Jeremiah Kuntz, who is our legislative director that's here that's responsible for those bills, and we will certainly address those because this is an industry-wide effort to get these two bills to the House and the Senate and passed through. So appreciate that.

With respect to the appropriations process -- I know that we'll have up here in a second from the executive director, and he may want to comment further on that, as well as Linda Flores -- I'm very pleased to report that the House, the Senate and the Governor's versions all were very supportive of this agency.

The one major blow that we took is one that's being worked on and that is the Automotive Burglary and Theft Prevention Authority, and certainly I want to commend the staff of that agency that is part of us, and also the members of their board and the public that's been very demonstrative, positively aggressive and supportive

of that program and seems to be having impact with the subcommittee and then the full committees in the Senate. So just stayed tuned as to what happens there.

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I also want to note that there is, as I mentioned earlier on the capital technology piece, widespread support for this agency and widespread support for this board, and that is very gratifying to hear that, so we should all take some pride in that. But also, there is a responsibility for that. I was glad to see how it was exercised here today, and certainly there is a great expectation that we continue that oversight.

There also is a movement -- we'll identify
those to you in April, a lot of things are coming at us -tomorrow is the last day for bill filing and there is a
movement of some programs towards us, so in April we'll
push those out towards you.

I mentioned earlier Jeremiah Kuntz who joined us here. He literally joined us the first of February and he's been running hard at it. Between him and Denise Pittard and Katherine Chambers, they have been spending 12-15 hour days, six-seven days a week on this stuff and we owe them a debt of halfway gratitude, we've got half the session to go forward.

I don't know if they have anything, or Jeremiah, if you have anything you want to add.

MR. KUNTZ: Jeremiah Kuntz, director of Legislative Affairs for DMV.

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I don't really have anything to add. The chair has done a great job of really conveying to you all the things that we've been kind of working on right now.

We'll continue to work with stakeholders as these bills move through the process, and we've been working a lot with members of the legislature. They have been asking us lots of questions about different programs and different transfers of programs to us, so we'll keep you abreast of kind of what happens on those as we know more information.

I'm glad to be aboard and look forward to working with all of you during the session.

MR. VANDERGRIFF: The last thing I would like to note in this area is I've often wondered exactly what all the folks did that analyzed our bills, and gosh, how much work would that be, and then I watch what comes in here from the legislature. There is so much that hits this department and their requests for analysis and fiscal notes. My hat's off to Mary Ann Chapman and all of her group over there, they do a great job, and of course, Randy oversees them and they do a great job helping us with that. So I have a greater renewed appreciation for the volume of workload that comes in during the six months of the session.

MR. KUNTZ: We're currently tracking about 352 bills right now. We anticipate that will grow between today and tomorrow by some significant amount, but there's quite a few that we're tracking right now. A subset of that really impacts us, but we're kind of keeping our eye on everything that's going on right now.

MR. VANDERGRIFF: And all members are asking for information immediately.

MR. KUNTZ: Absolutely, especially today and tomorrow.

MR. VANDERGRIFF: With that, I'll turn it to the executive director.

MR. SERNA: Thank you, Mr. Chairman.

We'll go over the financial statements in just a little bit, but what I'd like to do is skip down to the other items and continue what the chairman was talking about with regard to our appropriations presentations.

Staff appeared before both House Appropriations Subcommittee and full Committee for appropriations markup and we have appeared before the Senate Finance Committee on our initial meeting. The feedback that we've gotten from both committees has been very positive. With regard to the House, the recommendation was to advance our budget as presented by the Legislative Budget Board, and as the chairman pointed out, it pretty much supported us in every

aspect of our operations with the exception of the

Automobile Burglary and Theft Prevention program, and
those stakeholders are working very hard, as is the

department, to try to make sure that that gets addressed.

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We are encouraged with where we're at in both the House and the Senate because as that bill moves to conference committee, we're in a pretty good position to be able to not only continue our operations but advance our operations and continue our major automation initiative, so we're very encouraged by that.

The last thing I want to talk about is with regard to -- and I was going to introduce Jeremiah who came onboard to replace Debra Giles who went on to the private sector -- Jeremiah has hit the floor running and between Jeremiah and Denise and Katherine Chambers, who is back at the office still monitoring the activity that's going on because the legislature continues, I think we've got a very good legislative staff that's keeping us well informed without any surprises coming along.

Denise probably gets something in the neighborhood of about a dozen inquiries, at minimum, a dozen inquiries a day from members' offices just on regular business, doesn't have anything to do with bills but on the regular business of constituent issues or questions about how do you do this or how do you do that,

and she's been continuing to handle that.

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Jeremiah, I see in the office or I'll see him in the halls doing what he's supposed to be doing, same thing with Denise, and again, Katherine is kind of keeping the home fires burning, monitoring both the committee meetings and the floor sessions.

Let me go back to the agenda and that is ask the board if there are any questions on the financial summary that's in the board book.

MR. CAMPBELL: Just a couple.

MR. SERNA: Yes, sir.

MR. CAMPBELL: This is financial highlights under the category of utilities, it shows we're already past our budget on that amount but we've still got some time to go. How did we miss that so bad?

MS. FLORES: For the record, my name is Linda Flores. I'm the CFO for the department.

On utilities, that amount in December includes some manual charges, for example the Riverside rent, so we paid it all for the year, so it's not a typical onetwelfth, one-twelfth.

MS. JOHNSON: Isn't rent a separate line item?

MS. FLORES: I'm sorry. It sure is. Under

utilities, I'll have to go back and research that for you.

MR. CAMPBELL: But it does show that you paid a

larger amount at the same time frame in December, but we're over budget either way, so if it's not one-twelfth, it's still going to be way over budget. So if you'd look at that.

MS. FLORES: Yes, sir.

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MR. CAMPBELL: Also, under the category of 209, the objective of expenses 209, and the budget amount is like \$92 million, and I understand that is funds that also rolled forward from last year.

MS. FLORES: Correct, yes, sir.

MR. CAMPBELL: But based on our spending right now, we should be about \$53 million over in that category, or under, I guess you would say.

MS. FLORES: Under.

MR. CAMPBELL: How is that going to be viewed as we go forward. Are we going to be able to retain that, use it, pull it forward? What are we going to do?

MS. FLORES: If those dollars are not spend by August 31, they will lapse into the fund balance and they will not resurface again unless our new budget takes effect.

Through the appropriations process, some of those dollars have actually been re-purposed. We had a lot of carryforward, if you'll recall. The Legislative Budget Board actually reprogrammed some of those dollars

for our data center service costs for the next biennium, 1 so they're going to be back in our budget, maybe not at 3 that level that we had. I think the carryforward was close to \$26 million; they re-purposed about \$10-. So 4 that was all part of that appropriations request and what 5 6 actually went forward. 7 MR. CAMPBELL: So they re-purposed about \$10 million and we're going to be about \$50 million over, so 8 there's going to be about \$40 million that we give up? 9 10 MS. FLORES: Unless we have another item in our

MR. CAMPBELL: Okay.

operating budget for the next biennium.

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MS. FLORES: A lot of those dollars also are tied to the Vision 21 Texas automation project.

MR. VANDERGRIFF: What will be the final, maybe about \$16 million that we might have that would actually lapse?

MR. SERNA: Yes, sir.

MR. VANDERGRIFF: And I think that the stated purpose of this agency and the board is that we're not just going to go spend money to spend money, that that money would come back to the state, so we expect to have a surplus that would be returned.

MS. FLORES: Absolutely.

MR. WALKER: And that goes to Fund 6. Right?

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MS. FLORES: Yes. 1 MR. VANDERGRIFF: I think we've always got to 2 3 remember that in addition to, obviously, our operations that we're concerned about that the revenue that we're 4 responsible for and generate is for transportation 5 6 purposes and Fund 6, so every little bit helps. 7 MR. CAMPBELL: Absolutely. MR. VANDERGRIFF: Any other questions of Ms. 8 Flores? 9 10 MR. WALKER: I have one question. \$61,000 in advertising, is that under Auto Burglary and Theft? 11 12 MS. FLORES: Yes, sir, for the H.E.A.T. 13 program, but yes, it is the ABTPA program. MS. JOHNSON: Isn't it for Put Texas In Your 14 15 Corner as well? 16 MS. FLORES: Actually, that contract has 17 expired and we had two contracts with Think Street, one was for the Auto Burglary and Theft Prevention, and the 18 19 other was Put Texas In Your Corner, but that contract has expired and will not continue for the rest of the year. 20 MS. JOHNSON: So the \$61,000 for Put Texas In 21 22 Your Corner is the last time we'll see Put Texas In Your Corner? 2.3 24 MS. FLORES: Yes, ma'am.

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MR. WALKER: The \$61- is for Put Texas In Your

Corner or is that Lock Your Car? 1 MS. FLORES: So there is some expenditures for 2 3 ABTPA and there's also some expenditures for Put Texas In Your Corner, and it's the last expenditures for Put Texas 4 In Your Corner. 5 6 MR. WALKER: The IRP, the contract services, \$8,880, that's note number 22, I noted, says Federal grant 7 8 reimbursements for IRP meeting. MS. FLORES: So we've spent the money and we 9 10 should be getting reimbursed. MR. WALKER: So the note is to tell us that 11 12 we're going to get that money back? 13 MS. FLORES: Yes, sir. MR. WALKER: Because it wasn't a credit and I 14 15 didn't understand your note. 16 MS. FLORES: Sorry. 17 MR. SERNA: We've spent the money but we'll get the money returned to us. 18 19 MR. RODRIGUEZ: Just one question. TexasSure is still moving along towards the Department of 20 Insurance? 21 MR. SERNA: Yes, sir. That's one of the 22 programs that will be transferred to the Texas Department 23 24 of Insurance. The rider is being stricken from our budget

and added to Department of Insurance's budget, and then

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1	also the organ donor rider.
2	MR. WALKER: They took that off. Right?
3	MR. SERNA: Yes, sir. And LBB has agreed to
4	remove that.
5	MR. VANDERGRIFF: Any other questions?
6	MR. CAMPBELL: Not to the financial but to Mr.
7	Serna.
8	The auditor, it's been posted, where are we on
9	that?
10	MS. HEIKKILA: For the record, my Dawn
11	Heikkila. I'm chief operating officer for the Department
12	of Motor Vehicles.
13	We have received a pool of applicants and we
14	have an initial screening instrument. We have a pool of
15	interview questions, some of them are good, some of them
16	are not so good. I had Linda help me with some mechanical
17	kind of accounting/financial technical questions. And I
18	was talking with Member Butler about going through the
19	question pool and kind of refining them, because this is a
20	critical hire for the department and we want to make sure
21	that through the hiring process we tease out the
22	appropriate skill sets we need for this individual.
23	MR. CAMPBELL: And you've got all your
24	applicants in?
25	MS. HEIKKILA: Our HR department has the

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applications. 1 MR. CAMPBELL: So we're done with all the 2 3 postings. MS. HEIKKILA: The posting is closed, we have 4 the applicant pool, it's going through the initial 5 6 screening does it meet the minimum requirements. 7 screening instrument that was developed off the 8 competencies in the posting is for the secondary screening, and from that group after the secondary 9 10 screening, that's the subset that will be considered for interview based on their ranking, and it's at that point 11 we have to have the question pool. 12 13 MR. CAMPBELL: And when should this take place? MS. HEIKKILA: It can take place as soon as we 14 15 have an approved set of questions. 16 MR. VANDERGRIFF: Yes, Vice Chair. 17 MS. JOHNSON: As I recall in the org chart -and I could be wrong, I haven't looked at my LAR in a 18 19 little while -- the internal auditor is hired by the board. 20 MS. HEIKKILA: Right. 21 22 MS. JOHNSON: Not the department. MS. HEIKKILA: Correct. 2.3 24 MS. JOHNSON: Okay. So do we have a board

committee or any board members involved? I'm concerned

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with the agency doing screening without any input from the board on our person, so that's really important in my opinion. If Mr. Campbell has been involved in that, then I feel quite comfortable.

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MS. HEIKKILA: I've been working with both Mr. Campbell and Mr. Butler which is why we haven't moved forward yet because we still don't have a set of questions to use for interview. Mr. Campbell has asked that our HR staff do the screening and then give the secondary screening pool, those that are eligible for consideration for an interview, and let them review them based on both the screening instrument and decide who they want to interview, and at that point we'll work with their schedules and set interviews.

MR. SERNA: And just a quick point of clarification because Vice Chair Johnson's point is well taken, the screening that the HR department is doing is for minimum qualifications, so it's just do they have the required degree, the years of experience, et cetera. The more detailed screening and then the interview questions, the interviews, et cetera, staff will support the board but it's a board committee function because we recognize very clearly that that function reports directly to the board.

MS. JOHNSON: Thank you.

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MR. WALKER: What do we pay for that position? 1 MS. HEIKKILA: I don't right off the top of my 2 3 head recall what the salary range was. MR. VANDERGRIFF: It's a range, not a specific 4 5 amount. 6 MS. HEIKKILA: Right. It's a range, not a specific amount. 7 8 MR. WALKER: What would that range be do you think? 9 10 MS. HEIKKILA: Without having the posting in front of me, I would hate to just pick a number, but I can 11 12 certainly get you a copy of the posting that has the range 13 on it. MR. CAMPBELL: I think, based on what we were 14 15 looking at, it was anywhere from about \$70- to about \$130-16 17 MR. SERNA: That's the whole range for the classification which is a little misleading to candidates 18 19 because we're not going to pay at that upper end, but it's the board's call on what we end up paying that candidate. 20 MR. CAMPBELL: Well, I just know that kids 21 coming out of school going to work for the big four 22 accounting firms are making about \$58,000 starting today, 23 24 so I just want to make sure we weren't going to pay

\$40,000.

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MR. SERNA: No, sir.

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MR. CAMPBELL: And what we asked is if they would narrow it down to about the top seven and then the committee to review the top seven, select three or four or however many they want to interview personally. And I guess the chairman needs to appoint an additional to the committee.

(General talking and laughter.)

MR. SERNA: That's all I have, Mr. Chairman.

MR. VANDERGRIFF: Do any of the board members have any additional comments?

(No response.)

MR. VANDERGRIFF: Does any member of the public have anything they'd like to add?

(No response.)

MR. VANDERGRIFF: With that, I do not believe we have anything further. We do not have an executive session planned for today unless you have need for one.

MR. BRAY: I do have some things to go over.

MR. VANDERGRIFF: Okay. I did not know that, but we do have an executive session. We're going to take a short break of probably about five minutes and then we will go into closed session. It is now 11:11 a.m. on March 10, 2011. We will go into executive session, actually I will be realistic and say at 11:21 under the

following sections of the Texas Government Code: Section 551.071 to obtain advice from legal counsel regarding a pending or contemplated litigation, a settlement offer, or any other item on this agenda; and Section 551.074, personnel matters, discussion relative to the appointment, employment, evaluation, reassignment, duties, discipline and dismissal of personnel.

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With that, we'll move to executive session in ten minutes.

(Whereupon, at 11:11 a.m., the meeting was recessed, to reconvene this same day, Thursday, March 10, 2011, following conclusion of the executive session.)

MR. VANDERGRIFF: It is approximately 11:55

a.m. on March 10, 2011, and the Board of the Texas

Department of Motor Vehicles is now in open session. We want to note that no action was taken in closed session.

Before I entertain a motion to adjourn, I do want to note that before we went into executive session that two board members, Board Member Victor Rodriguez and Board Member Jim Campbell left and did not participate in executive session, so they have departed us, Mr. Campbell for the last time as a board member. Mr. Rodriguez I'm sure will be back in April.

With that, also before entertaining a motion to adjourn, I want to recognize somebody who has served us

for several months since our inception, Jan Minnard. 1 has just recently been appointed the supervisor for the 2 department's scan center, and so she has been very helpful 3 and very supportive of our board as we've moved forward 4 but she's now moving on to other duties, bigger and better 5 6 duties. Thank you very much for all of your support. Mr. Serna also notes that it's a double thank you, it is 7 8 also your birthday today. (Applause; general talking and laughter.) 9 10 MR. VANDERGRIFF: With that, I'd be pleased to entertain a motion to adjourn. 11 MR. BUTLER: So moved. 12 13 MS. GILLMAN: Second. MR. VANDERGRIFF: Moved by Member Butler, 14 15 second by Member Gillman. No discussion on that one, I'm 16 sure, so all those in favor please raise your right hand. 17 (A show of hands.) MR. VANDERGRIFF: Motion carries of those 18 19 present, six-zero. Thank you very much for attending. are adjourned. 20 (Whereupon, at 11:57 a.m, the meeting was 21

22

concluded.)

CERTIFICATE

MEETING OF: Texas DMV Board

LOCATION: Austin, Texas

DATE: March 10, 2011

I do hereby certify that the foregoing pages, numbers 1 through 101, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy King before the Texas Department of Motor Vehicles.

03/20/2011

(Transcriber)

(Date)

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